

## **Additional Dissenting Views of Rep. Robert C. “Bobby” Scott**

I respectfully dissent from the section of the Minority's views relating to the issue of censure. Although censure would be Constitutionally permissible, I can not support censure because of a number of policy problems I believe would be created by adopting this censure resolution now.

I have complained from the beginning about the rank unfairness of these proceedings. As a result of this unfair process, we have an insufficient factual basis to support impeachment and for the same reason, we have not established a sufficient factual basis to support the conclusions drawn by the proposed censure resolution. I opposed the structure of this inquiry and supported instead the fair, focused and expeditious process proposed by the Minority. That plan would have specifically stated the allegations. We would then have been afforded an opportunity to focus on those allegations, if any, we believed to be constitutional. This stage would have then been followed by a fact finding process and a logical conclusion.

Instead of that fair process, we jumped from the allegations to the conclusion that the President should be impeached, skipping the focus and fact finding portions of the rational inquiry. The so-called evidence for impeachment is flimsy, because it is based on contradictory hearsay and dubious inferences. This so-called evidence cited by the Majority might have been proven true, but unfortunately we have not adhered to basic principles of justice and tested that evidence by the traditional ways we test the reliability of evidence: through cross-examination and the opportunity for the accused to rebut this evidence. The evidence before us has been selected by Mr. Starr and consists mainly of answers to questions posed by the prosecutors. It contains no additional answers to questions posed by the President's lawyers nor any rebuttal evidence. And, therefore, it is wrong to draw factual conclusions from the uncross-examined hearsay and inferences drawn by Mr. Starr without the opportunity for the accused to provide any rebuttal. Thus, this process, which fails to establish a factual basis for impeachment, also fails to establish any appropriate factual basis for censure.

There are also serious policy implications when one co-equal branch of government seeks to unilaterally punish another branch, and this problem becomes even worse when there becomes an expectation or responsibility to censure every time one branch is outraged by the conduct of another branch. In addition, while Articles of Impeachment are pending, it is inappropriate to consider a censure resolution, because it diverts attention from the reality that we are on the verge of impeaching the President of the United States for charges that are not supported by the evidence and wouldn't even be impeachable offences, if they were true. Furthermore, it may lower the bar for future impeachments even lower than the standard we have today which a Majority witness at our Impeachment hearing called “low crimes and misdemeanors”. That is because allegations which are clearly not impeachable, but censurable, such as those before us now, would be deemed to warrant a full fledged impeachment inquiry in the

future.

Impeachment Inquiries are serious. In our partisan zeal, we have diverted attention from other important issues, such as religious freedom, juvenile justice, and immigration matters, which could not be considered because we were focused on the impeachment inquiry. This impeachment inquiry has unnecessarily trampled on the rights of innocent citizens by releasing embarrassing information, by issuing subpoenas for confidential information, and by voting against a motion to appropriately honor the attorney client privileges of witnesses called to testify before the Committee. Impeachment inquiries should, therefore, only be launched if there are credible allegations of serious, impeachable offenses, not the lesser category of offenses currently before the Committee.

In summary, because we have not had any rational fact finding to prove any of the allegations before the Committee, because co-equal branches of government should refrain from censuring one another, and because censure might provoke future impeachment inquiries with flimsy allegations such as those before us, I cannot support censure in the impeachment context.